

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RUSLAN SADIKHOV,

Plaintiff,

v.

JOHN DOE #'S 1, 2, 3 (C.O.), et al.,

Defendants.

7:24-CV-6621 (KMK)

ORDER OF SERVICE

KENNETH M. KARAS, United States District Judge:

Plaintiff Ruslan Sadikhov, who is appearing pro se and is currently incarcerated in the Attica Correctional Facility, brings this Action asserting claims of violations of his federal constitutional rights. He seeks damages and injunctive relief, and he sues: (1) three unidentified “John Doe” correctional officers assigned to the Green Haven Correctional Facility (“Green Haven”); (2) one unidentified “John Doe” Green Haven supervisor of the abovementioned correctional officers; (3) the Green Haven Superintendent; and (4) New York State Department of Corrections and Community Supervision (“DOCCS”) Commissioner Daniel F. Martuscello III. (*See* Dkt. No. 1 (the “Complaint” or “Compl.”).) The Court construes Plaintiff’s Complaint as asserting claims under 42 U.S.C. § 1983.

By order dated October 10, 2024, the Court granted Plaintiff’s request to proceed in forma pauperis (“IFP”), that is, without prepayment of fees.¹ (Dkt. No. 7.) The Court now: (1) directs service on the Green Haven Superintendent and on DOCCS Commissioner Martuscello; (2) directs those defendants to comply with Local Civil Rule 33.2; and (3) directs the Attorney

¹ Prisoners are not exempt from paying the full filing fee, even when they have been granted permission to proceed IFP. *See* 28 U.S.C. § 1915(b)(1).

General of the State of New York to provide to Plaintiff and to the Court the identities, badge numbers, and service addresses of the unidentified “John Doe” defendants.

DISCUSSION

A. Service on the Green Haven Superintendent and DOCCS Commissioner Martuscello

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on assistance from the Court and the United States Marshals Service (“USMS”) to effect service.² *Walker v. Schult*, 717 F.3d 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the USMS to serve if the plaintiff is authorized to proceed IFP).

To allow Plaintiff to effect service of the Complaint on the Green Haven Superintendent and on DOCCS Commissioner Martuscello, the Clerk of Court is instructed to fill out USMS Process Receipt and Return forms (“USM-285 forms”) for each of those defendants. The Clerk of Court is further instructed to issue summonses for each of those defendants, and deliver to the USMS all the paperwork necessary for the USMS to effect service of a summons and the Complaint on each of those defendants.

If the summonses and the Complaint are not served on those defendants within 90 days after the date that summonses for those defendants have issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

²Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date a complaint is filed, Plaintiff is proceeding IFP and could not have effected service until the Court reviewed the Complaint and ordered that any summonses be issued. The Court therefore extends the time to serve until 90 days after the date that any summonses issue.

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

B. Local Civil Rule 33.2

Local Civil Rule 33.2, which requires particular defendants in certain types of prisoner actions to respond to specific, court-ordered discovery requests, applies to this action. Those discovery requests are available on the court's website under "Forms" and are titled ["Plaintiff's Local Civil Rule 33.2 Interrogatories and Requests for Production of Documents."](#) Within 120 days of the date of service, the Green Haven Superintendent and DOCCS Commissioner Martuscello must serve responses to those standard discovery requests. In their responses, those defendants must quote each request verbatim.³

C. The Unidentified "John Doe" Defendants

Under *Valentin v. Dinkins*, 121 F.3d 72 (2d Cir. 1997), a pro se litigant is entitled to assistance from the Court in ascertaining an unidentified defendant's identity and service address. *Id.* at 76. In the Complaint, Plaintiff supplies sufficient information to permit DOCCS to provide the identities, badge numbers, and service addresses of the unidentified "John Doe" defendants. Those defendants include: (1) those DOCCS correctional officers assigned to Green Haven who escorted and monitored Plaintiff on February 16, 2024, while Plaintiff underwent the intake process at Green Haven, including when Plaintiff was, upon arrival at Green Haven, (a) placed in a holding cell, (b) escorted to a Green Haven intake shower area, (c) searched in the shower area, and (d) placed into a Green Haven barber chair; and (2) any supervisory DOCCS officers present with Plaintiff and those abovementioned DOCCS correctional officers on that

³ If Plaintiff would like copies of those discovery requests before receiving the responses and does not have access to the website, Plaintiff may request them from the court's Pro Se Intake Unit.

date, while Plaintiff underwent any of the abovementioned portions of the Green Haven intake process. (*See* Compl. 7–9.) It is therefore ordered that the Attorney General of the State of New York, who is the attorney for and agent of DOCCS, must ascertain the identities, badge numbers, and service addresses of the unidentified “John Doe” defendants. The Attorney General must provide this information to Plaintiff and to the Court within 60 days of the date of this order.

Within 30 days of receiving this information, Plaintiff must file an amended complaint naming the newly identified individuals as defendants and providing those defendants’ badge numbers and service addresses. The amended complaint will replace, not supplement, the original Complaint. An amended complaint form that Plaintiff should complete is attached to this order. Once Plaintiff has filed an amended complaint, the Court will screen it and, if necessary, issue an order directing service on the newly identified defendants and directing their compliance with Local Civil Rule 33.2.

CONCLUSION

The Court directs the Clerk of Court to mail an information package to Plaintiff.

The Court also directs service on the Superintendent of the Green Haven Correctional Facility and on DOCCS Commissioner Martuscello.

The Court further directs the Clerk of Court to: (1) issue summonses for those defendants; (2) complete USM-285 forms with the service addresses for those defendants; and (3) deliver all documents necessary to effect service of the summonses and the Complaint on those defendants to the USMS.

Within 120 days of the date of service, the Superintendent of the Green Haven Correctional Facility and DOCCS Commissioner Martuscello must comply with Local Civil Rule 33.2.

The Court additionally directs the Clerk of Court to mail a copy of this order and a copy of the complaint to the Attorney General of the State of New York, at 28 Liberty Street, New York, New York 10005.

An amended complaint form is attached to this order.

SO ORDERED.

Dated: October 28, 2024
White Plains, New York

A handwritten signature in black ink, appearing to read 'K. Karas', is written over a horizontal line.

KENNETH M. KARAS
United States District Judge

DEFENDANTS AND SERVICE ADDRESSES

1. Superintendent
Green Haven Correctional Facility
594 Route 216
Stormville, New York 12582-0010
2. Daniel F. Martuscello III, Commissioner
New York State Department of Corrections and Community Supervision
1220 Washington Avenue #9
Albany, New York 12226

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Write the full name of each plaintiff.

-against-

____ CV ____
(Include case number if one has been assigned)

**AMENDED
COMPLAINT**
(Prisoner)

Do you want a jury trial?
☐ Yes ☐ No

Write the full name of each defendant. If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed above must be identical to those contained in Section IV.

NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

I. LEGAL BASIS FOR CLAIM

State below the federal legal basis for your claim, if known. This form is designed primarily for prisoners challenging the constitutionality of their conditions of confinement; those claims are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a “*Bivens*” action (against federal defendants).

☐ Violation of my federal constitutional rights

☐ Other: _____

II. PLAINTIFF INFORMATION

Each plaintiff must provide the following information. Attach additional pages if necessary.

First Name	Middle Initial	Last Name
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State any other names (or different forms of your name) you have ever used, including any name you have used in previously filing a lawsuit.

Prisoner ID # (if you have previously been in another agency’s custody, please specify each agency and the ID number (such as your DIN or NYSID) under which you were held)

Current Place of Detention

Institutional Address

County, City	State	Zip Code
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III. PRISONER STATUS

Indicate below whether you are a prisoner or other confined person:

☐ Pretrial detainee

☐ Civilly committed detainee

☐ Immigration detainee

☐ Convicted and sentenced prisoner

☐ Other: _____

IV. DEFENDANT INFORMATION

To the best of your ability, provide the following information for each defendant. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are identical to those listed in the caption. Attach additional pages as necessary.

Defendant 1:

First Name	Last Name	Shield #
Current Job Title (or other identifying information)		
Current Work Address		
County, City	State	Zip Code

Defendant 2:

First Name	Last Name	Shield #
Current Job Title (or other identifying information)		
Current Work Address		
County, City	State	Zip Code

Defendant 3:

First Name	Last Name	Shield #
Current Job Title (or other identifying information)		
Current Work Address		
County, City	State	Zip Code

Defendant 4:

First Name	Last Name	Shield #
Current Job Title (or other identifying information)		
Current Work Address		
County, City	State	Zip Code

V. STATEMENT OF CLAIM

Place(s) of occurrence: _____

Date(s) of occurrence: _____

FACTS:

State here briefly the FACTS that support your case. Describe what happened, how you were harmed, and how each defendant was personally involved in the alleged wrongful actions. Attach additional pages as necessary.

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and extend across the width of the page. There are no margins, text, or other markings on the paper.

INJURIES:

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

VI. RELIEF

State briefly what money damages or other relief you want the court to order.

VII. PLAINTIFF'S CERTIFICATION AND WARNINGS

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I understand that if I file three or more cases while I am a prisoner that are dismissed as frivolous, malicious, or for failure to state a claim, I may be denied *in forma pauperis* status in future cases.

I also understand that prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions, 42 U.S.C. § 1997e(a), and that my case may be dismissed if I have not exhausted administrative remedies as required.

I agree to provide the Clerk's Office with any changes to my address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

Dated	Plaintiff's Signature
First Name	Middle Initial
	Last Name
Prison Address	
County, City	State
	Zip Code

Date on which I am delivering this complaint to prison authorities for mailing: _____